

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,))
))
vs.) CRIMINAL CASE NO. CCB-16-0267
))
DWIGHT JENKINS,))
Defendant.))
_____)

April 10, 2017
Courtroom 7D
Baltimore, Maryland
Guilty Plea and Sentencing Hearing

BEFORE: THE HONORABLE CATHERINE C. BLAKE, Judge

For the Plaintiff:

Christina Hoffman, Esquire
Lauren Perry, Esquire
Assistant United States Attorney

For the Defendant:

Michael Montemarano, Esquire

Reported by:

Nadine M. Gazic, RMR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201
410-962-4753

P R O C E E D I N G S

THE COURT: Call the case.

MS. HOFFMAN: This is United States versus Dwight Jenkins. Case number CCB-16-0267. I'm Christina Hoffman on behalf of the United States and with me at counsel table is Lauren Perry, also on behalf of the United States.

THE COURT: All right, thank you.

MR. MONTEMARANO: Good afternoon, Your Honor. Michael Montemarano on behalf of Mr. Jenkins, who stands next to me at trial table.

THE COURT: All right, thank you. And so we're here for -- just to be clear, we're here for both a guilty plea and sentencing. It is my understanding that Mr. Jenkins would like to proceed directly to sentencing?

MR. MONTEMARANO: Yes, Your Honor.

THE COURT: Okay, and I assume we will be able to do that. I should say that for the record, having had that request, I also received -- obviously I'm familiar with the case generally and have reviewed the pre-plea criminal history that was done, so if we're ready to proceed with the plea, go ahead.

THE CLERK: Mr. Jenkins, please stand, sir, and raise your right hand.

(Defendant sworn.)

THE CLERK: Thank you, you may put your hand down.

1 Please state your full name for the Court.

2 **THE DEFENDANT:** Dwight Jenkins.

3 **THE CLERK:** What is your age?

4 **THE DEFENDANT:** 48.

5 **THE CLERK:** What is the year you were born?

6 **THE DEFENDANT:** '68

7 **THE CLERK:** Mr. Jenkins, on September the 27th of
8 2016, you appeared before the Court at that time. You were
9 arraigned, you entered a plea of not guilty as to Counts One,
10 Two, Sixteen, Seventeen, Nineteen, Twenty-One, Twenty-Two,
11 Twenty-Three and Twenty-Four of the superseding indictment.
12 Do you wish to change you plea as to Counts One and Two of the
13 superseding indictment?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE CLERK:** How do you wish to plead as to Counts One
16 and Two of the superseding indictment?

17 **THE DEFENDANT:** Guilty.

18 **THE CLERK:** The plea is guilty as to Counts One and
19 Two of the superseding indictment and not guilty as to the
20 remaining counts; is that correct?

21 **THE DEFENDANT:** Yes, ma'am.

22 **THE CLERK:** Thank you, if you'll just slide up to the
23 table, bring that microphone down in front of you, please.

24 **THE COURT:** Thank you. And if you don't mind, Mr.
25 Montemarano, I think you can push that forward, that monitor a

1 bit. I think it just sort of will fold. Thank you. Other
2 direction. Thank you very much. That's good, that's fine.
3 Okay.

4 So Mr. Jenkins, what I need to do is just to ask you
5 a series of questions to make sure that you know what you're
6 doing. And at any point if you don't understand any of my
7 questions or you need a chance to talk to your attorney for
8 any reason, just let me know, all right?

9 **THE DEFENDANT:** Yes, ma'am.

10 **THE COURT:** All right, sir. Do you understand you
11 are under oath, so if you knowingly give a false answer to any
12 of my questions, you could be prosecuted for false declaration
13 or perjury?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE COURT:** Okay. How far did you go in school, sir?

16 **THE DEFENDANT:** GED.

17 **THE COURT:** I take it then that you were able to read
18 and understand the charges against you and the plea letter in
19 this case?

20 **THE DEFENDANT:** Yes, ma'am.

21 **THE COURT:** In the past 24 hours have you taken any
22 drugs or alcohol or medication of any kind?

23 **THE DEFENDANT:** Medication for thyroid and high
24 blood pressure, that's it.

25 **THE COURT:** Okay, all right. Thyroid and high blood

1 pressure, great. And you were taking medicine prescribed for
2 you by a doctor?

3 **THE DEFENDANT:** Yes, ma'am.

4 **THE COURT:** Okay. Are you having any difficulty
5 understanding what's going on here today?

6 **THE DEFENDANT:** No, ma'am.

7 **THE COURT:** Good. You're pleading guilty to two
8 charges, Counts One and Two of the superseding indictment.
9 And Count One is the racketeering conspiracy, Count Two is a
10 drug conspiracy. Do you understand there are several things
11 that the Government would have to prove beyond a reasonable
12 doubt if the case went to trial? Specifically, as far as
13 Count One, the racketeering conspiracy, they'd have to prove
14 that from approximately 2011 up through the date of the
15 superseding indictment and at least partly here in Maryland,
16 there was an enterprise that existed as charged in the
17 superseding indictment; that this enterprise affected
18 interstate or foreign commerce; that you were associated with
19 or employed by this enterprise and that you personally,
20 knowingly and willfully, you conspired, you agreed with at
21 least one other person to conduct and to participate in the
22 affairs of this enterprise through a pattern of racketeering
23 acts, racketeering conspiracy. Do you understand that's what
24 the Government would have to prove as far as Count One?

25 **THE DEFENDANT:** Yes, ma'am.

1 **THE COURT:** Okay. As far as Count Two on the drug
2 trafficking conspiracy, do you understand that the Government
3 would have to prove that from again, approximately 2011
4 through the date of the superseding indictment and at least
5 partly here in Maryland, that there was an agreement between
6 at least two people to violate the drug laws of the United
7 States by distributing or possessing with the intent to
8 distribute heroin and cocaine base, that you were part of that
9 agreement and you joined in it knowingly, voluntarily, you
10 knew what it was all about, you wanted to help make it succeed
11 and that it was foreseeable to you that this conspiracy, the
12 people involved in the conspiracy would distribute a kilo or
13 more of heroin and 280 grams or more of cocaine base. Do you
14 understand that's what the Government would have to prove as
15 far as Count Two?

16 **THE DEFENDANT:** Yes, ma'am.

17 **THE COURT:** Okay. In terms of the possible
18 penalties, do you understand that the maximum sentence under
19 the law for Count One is life in prison, a fine of as much as
20 \$250,000 and a five-year term of supervised release. For
21 Count Two the maximum is also life in prison. There is a
22 mandatory minimum term of 10 years in prison. The fine could
23 be as much as 10 million dollars and there is a five-year term
24 of supervised release. There's also a \$100 special assessment
25 for each count. Do you understand those penalties?

1 **THE DEFENDANT:** Yes, ma'am.

2 **THE COURT:** All right, sir. I mentioned supervised
3 release. So that's a term of years that's imposed to follow
4 whatever prison term you get. While you're on supervised
5 release, you have to obey the rules and regulations of
6 supervised release, not commit any new offense. If you
7 violate any condition of supervised release, you can get put
8 back in prison for the full term of the supervised release
9 without getting any credit for the time you were out. Even if
10 that somehow meant you spent more time in prison than would
11 otherwise be the maximum, that's how supervised release works.
12 If you violate it, you could go back to jail for the full
13 term. Do you understand that?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE COURT:** All right, sir. Do you understand that
16 you're subject to what are called the sentencing guidelines
17 that have been issued by the United States Sentencing
18 Commission. They're advisory, but I have to calculate them to
19 the best I can and take them into account deciding on a
20 sentence in your case, specifically in this instance deciding
21 whether I agree with what you all are recommending. The
22 guidelines depend on a variety of things: The type of the
23 offense, your role in the offense, the quantity of drugs
24 involved, your criminal record, all those things go into
25 deciding what the advisory guideline range is going to be. Do

1 you understand that?

2 **THE DEFENDANT:** Yes, ma'am.

3 **THE COURT:** Do you understand that under the law --
4 and this may be changed somewhat by your plea agreement, but
5 under the law if you think I make a mistake deciding on your
6 sentence, you have the right to appeal the sentence. The same
7 is true for the Government under the law. If the Government
8 thinks that I make a mistake deciding on the sentence, then
9 ordinarily the Government has the right to appeal the
10 sentence. Do you understand that?

11 **THE DEFENDANT:** Yes, ma'am.

12 **THE COURT:** All right, sir, when you plead guilty you
13 are giving up some very important rights. I'm sure you've
14 been over that with counsel, but I need to go through some of
15 those with you and make sure you're giving them up
16 voluntarily. Do you understand you have a right to continue
17 to plead not guilty to these charges?

18 **THE DEFENDANT:** Yes, ma'am.

19 **THE COURT:** Do you understand you have a right to a
20 trial by a jury?

21 **THE DEFENDANT:** Yes, ma'am.

22 **THE COURT:** Do you understand if you were willing to
23 give up your right to a trial by a jury and if the Government
24 also was willing to give up its right to a trial by a jury,
25 you could be tried just by a United States District judge.

1 You could have a judge trial without a jury.

2 **THE DEFENDANT:** Yes, ma'am.

3 **THE COURT:** All right, sir, do you understand that if
4 you did want to go to trial, you would continue to have the
5 right to be represented by counsel just as you are now. He
6 would stick with you. And so long as you cannot afford a
7 lawyer, one is appointed to represent you at the Government's
8 expense.

9 **THE DEFENDANT:** Yes, ma'am.

10 **THE COURT:** And do you understand that if you went to
11 trial you would be presumed innocent? The burden would be on
12 the Government to prove your guilt beyond a reasonable doubt.

13 **THE DEFENDANT:** Yes, ma'am.

14 **THE COURT:** Sir, do you understand that if you went
15 to trial, you or your attorney would have the right to
16 cross-examine. So he could ask questions of any witness who
17 testified against you. And if you went to trial, you would
18 have the right to make people come in and testify on your
19 behalf. In other words, if someone had some helpful
20 information, some evidence to give for you, you could have a
21 summons or subpoena issued to make them come in and testify.

22 **THE DEFENDANT:** Yes, ma'am.

23 **THE COURT:** All right, sir, do you understand that if
24 you went to trial, you personally would have the right to take
25 the witness stand and testify if you wanted to, but if you did

1 not want to testify for whatever reason, no one could force
2 you or make you testify.

3 **THE DEFENDANT:** Yes, ma'am.

4 **THE COURT:** Do you also understand if you decided not
5 to testify for whatever reason, no one, including the jury,
6 could hold that against you in any way. They could not decide
7 anything bad about your case or specifically that you were
8 guilty just because you decided not to testify.

9 **THE DEFENDANT:** Yes, ma'am.

10 **THE COURT:** Do you understand if you did choose to be
11 tried by a jury, in order for you to be convicted, the jury's
12 verdict would have to be unanimous. So there would be 12
13 jurors, they would all have to agree that you had been proven
14 guilty beyond a reasonable doubt.

15 **THE DEFENDANT:** Yes, ma'am.

16 **THE COURT:** Do you understand that when you plead
17 guilty, you are giving up each and every one of those rights?
18 There would be no further trial of any kind and you would be
19 sentenced based on your guilty plea?

20 **THE DEFENDANT:** Yes, ma'am.

21 **THE COURT:** All right, sir, and finally, do you
22 understand that when you plead guilty you are giving up your
23 right to try to suppress any statements you might have made,
24 keep something out of evidence that might have been taken from
25 you, pretrial motions? In other words, any defense that you

1 might have, you give it up when you plead guilty. Do you
2 understand that?

3 **THE DEFENDANT:** Yes, ma'am.

4 **THE COURT:** All right, sir, I have a plea agreement
5 letter here dated January 31, 2017 addressed to Mr.
6 Montemarano. It appears to have your signature at the end.
7 Did you read and sign this letter, Mr. Jenkins?

8 **THE DEFENDANT:** Yes, that's my signature.

9 **THE COURT:** Directly above your signature it says, I
10 *have read this agreement, including the sealed supplement and*
11 *I've carefully reviewed every part of it with my attorney. I*
12 *understand it and I voluntarily agree to it. Specifically, I*
13 *have reviewed the factual and advisory guidelines stipulation*
14 *with my attorney and I do not wish to change any part of it.*
15 *I am completely satisfied with the representation of my*
16 *attorney.* Is that all correct, Mr. Jenkins?

17 **THE DEFENDANT:** Yes, ma'am.

18 **THE COURT:** All right, specifically regarding the
19 representation that Mr. Montemarano has been providing to you,
20 is there anything you think he should have done that he hasn't
21 done or anything else you need to ask him about right now?

22 **THE DEFENDANT:** No, ma'am.

23 **THE COURT:** All right. I'm going to go through this
24 letter with you then, just a summary of the agreement, but let
25 me also ask whether anyone has used any force or made any

1 threats against you or against anyone else to get you to enter
2 into this agreement.

3 **THE DEFENDANT:** No, ma'am.

4 **THE COURT:** All right. The agreement says you're
5 pleading guilty to Counts One and Two, the racketeering
6 conspiracy and the drug distribution conspiracy.

7 Paragraph 2 tells you what the Government would have
8 to prove if the case went to trial.

9 Paragraph 3 tells you about the possible penalties.

10 Paragraph 4 tells you about the rights you're giving
11 up by pleading guilty, which may include certain valuable
12 civil rights and if you are not a US citizen, you might be
13 subject to deportation or other loss of immigration status.

14 Paragraph 5 says that you understand I have to
15 determine an advisory guideline range and take it into account
16 in establishing a sentence. You do have a specific agreement
17 with the Government about what the sentence should be.

18 Paragraph 6 is a factual stipulation and it says
19 that you agree that the Government could prove these facts
20 beyond a reasonable doubt. And that is that you, and also
21 known as "Huggie" and "Unc," were an associate of Mirtaland
22 Mafia Piru, MMP, during the dates of the racketeering
23 conspiracy and that you did agree with members of MMP to
24 conduct and participate in the gang's affairs -- and that's
25 the enterprise in this case -- the gang's affairs through a

1 pattern of racketeering activity that included offenses
2 involving drug distribution. You're agreeing that the overt
3 acts in which you are named in the superseding indictment are
4 an accurate sample of your activities in furtherance of the
5 racketeering enterprise and there are specific dates listed.
6 The first one in particular says July 13, 2015 you agreed to
7 and did distribute heroin to two undercover officers in the
8 1900 block of N. Forest Park Avenue.

9 There's another distribution on May 10th of 2016,
10 another one on May 16th of 2016. The May 10th was heroin, the
11 May 16th was crack cocaine. May 26th, distribution of both
12 crack cocaine and heroin. June 3rd, a distribution of both
13 crack cocaine and heroin. On June 9th, a distribution of
14 crack cocaine. On June 24, 2016 in the 1600 block of E. Pratt
15 Street it says you sold a Bersa .380 caliber firearm and 14
16 rounds of ammunition to a confidential informant. That was
17 illegal for you at the time to possess a firearm and
18 ammunition. Then on July 6th of 2016 there's distribution of
19 crack cocaine and heroin and an offer to sell a machine gun.
20 It says that in July and August of 2016 law enforcement
21 officers conducted a court-authorized wiretap of a cell phone
22 that belonged to you, as well as cell phones of co-defendants
23 and you were intercepted in a number of calls with a
24 co-defendant discussing drug distribution. September 27th of
25 2016, law enforcement officers executed a federal search

1 warrant at your home in Baltimore and among other things, they
2 recovered items that belonged to you that included body armor,
3 an empty Glock pistol box, a container with 44 rounds of .357
4 caliber ammunition, a box with 30 rounds of .38 Special
5 caliber ammunition, another box with 15 rounds of .38 Special
6 caliber ammunition, a small amount of crack cocaine, two
7 digital scales and numerous plastic baggies. So it says that
8 although you never officially joined MMP, you agree that you
9 did conspire with, you did agree with members of MMP to
10 distribute heroin and cocaine base in furtherance of the gang
11 and that it was reasonably foreseeable to you that between one
12 and three kilos of heroin and between 280 and 840 grams of
13 cocaine base would be distributed by members of the
14 conspiracy.

15 So my question, Mr. Jenkins, is whether you agree
16 that the statement of facts is correct and you did what it
17 says in there you did.

18 **THE DEFENDANT:** Yes, ma'am.

19 **THE COURT:** You do agree you're guilty of these two
20 offenses?

21 **THE DEFENDANT:** Yes, ma'am.

22 **THE COURT:** All right, sir, based on those facts you
23 also have an agreement with the Government about the
24 guidelines. Considering the underlying -- the racketeering
25 conspiracy, but the underlying drug distribution activities

1 undertaken in furtherance of the criminal enterprise, we get
2 to a base offense level of 30 with regard to the conspiracy to
3 distribute and possess with the intent to distribute heroin
4 and cocaine base. And then there's a two-level increase
5 because of your possession of a firearm. The way the
6 groupings of Count One and Two work out is that there's an
7 offense level of 32. Now, the Government is not opposing a
8 two-level downward adjustment in your offense level and, in
9 fact, will make a motion for the third level. So three levels
10 down for acceptance of responsibility, provided there's no
11 violation of the plea agreement between now and sentencing
12 which is not likely. Your adjusted offense level would be a
13 29. It does say there's no agreement about your criminal
14 history or criminal history category. I should indicate for
15 the record though just to be clear, I would assume that
16 counsel believed at least based on the pre-plea criminal
17 history report is that Mr. Jenkins is a Category I; is that
18 correct?

19 **MS. HOFFMAN:** That's correct, Your Honor.

20 **MR. MONTEMARANO:** Yes, Your Honor.

21 **THE COURT:** All right. Now in any event, aside from
22 what the correct advisory guideline calculation may be, you
23 have an agreement with the Government that a sentence of 120
24 months of incarceration, that's the 10 years, that's actually
25 the mandatory minimum I believe I mentioned on Count Two, but

1 in any event, 10 years of incarceration followed by five years
2 of supervised release is the appropriate sentence in this
3 case. I don't have to accept that, but if I don't, you would
4 have the chance to withdraw your guilty plea.

5 Paragraph 9 just says that you don't have any
6 disputes with the Government about the sentencing guidelines.
7 You can both give me whatever information would be helpful to
8 explain to me why the ten years is a reasonable sentence.

9 Paragraph 10 says that the Government will make that
10 recommendation at sentencing and assuming sentencing goes
11 forward, they would move to dismiss the other charges against
12 you in the indictment.

13 What it also says in paragraph 11 is that the US
14 Attorney will not prosecute you for any other violations of
15 federal criminal law that arise from the specific facts you
16 agree to in that paragraph 6. It does say that you understand
17 the investigation into your conduct remains ongoing. This
18 plea agreement does not cover other crimes, including murder,
19 attempted murder or conspiracy to commit murder committed in
20 furtherance of the racketeering conspiracy or drug conspiracy
21 to which you are now pleading guilty.

22 Do you understand that?

23 **THE DEFENDANT:** Yes, ma'am.

24 **THE COURT:** All right. Paragraph 12 says forfeiture.
25 You are agreeing to forfeit to the United States any interest

1 you have in property that's derived from or required as a
2 result of or used to facilitate illegal activities.
3 Specifically that includes the body armor and the ammunition
4 that I previously mentioned.

5 The next paragraph 13, 13 deals with appeal rights
6 and first of all what it says is that you're giving up your
7 right to appeal your conviction. In other words, your guilty
8 plea is to Counts One and Two. So after your conviction of
9 those two charges, you're giving up your right to appeal that.
10 Both you and the Government are also giving up that right that
11 I previously mentioned to appeal the sentence. Except, what
12 you're keeping is your right to appeal if there was somehow a
13 sentence more than 120 months, you have the right to appeal
14 that. The Government is seeking the right -- excuse me,
15 keeping the right to appeal any sentence of less than 120
16 months, but if it's 120 months, both sides are giving up their
17 right to appeal. Now, you can still use what's called Rule
18 35, if necessary, to correct some technical error in the
19 judgment and then it says you're giving up your rights under
20 the Freedom of Information Act. That just means you won't be
21 asking for more documents about the case.

22 Paragraph 14 says if you were to somehow commit a
23 new offense between now and sentencing or engage in
24 obstruction of justice or in some other way violate the plea
25 agreement, if the Government proved that to me, in that case

1 they would be free of their obligations to you. They could
2 make a different sentencing recommendation, for example, and
3 you would not necessarily be allowed to withdraw your guilty
4 plea.

5 Paragraph 15 says the Court is not a party to the
6 agreement. In other words, I didn't sign the letter. I do
7 have an independent responsibility to decide whether to accept
8 this or not, but again, if I don't, you have the opportunity
9 to withdraw your plea. Then it says that's the complete plea
10 agreement in this case, together with the sealed supplement.
11 And we have a policy in this district of having a sealed
12 supplement in every case discussing cooperation, whether or
13 not a defendant is cooperating.

14 **(Conference at the bench.)**

15 **(It is the policy of this Court that every guilty**
16 **plea and sentencing proceeding include a bench**
17 **conference concerning whether the defendant is**
18 **or is not cooperating.)**

19 **THE COURT:** Anything else from counsel?

20 **MS. HOFFMAN:** Nothing further from the Government.

21 **MR. MONTEMARANO:** Only relative to sentencing, Your
22 Honor.

23 **THE COURT:** Sure. All right, well let me then before
24 we get to that, turn to you, Mr. Jenkins. I didn't read this
25 word-for-word, but as far as you're concerned was that a

1 correct summary of what you think your agreement with the
2 Government is?

3 **THE DEFENDANT:** Yes, ma'am.

4 **THE COURT:** All right, let me put it another way. Is
5 there anything else that's been promised to you, any reward,
6 any benefit, anything you expect to get in exchange for your
7 guilty plea today, besides what's in this letter?

8 **THE DEFENDANT:** No, ma'am.

9 **THE COURT:** Okay. Any questions at all, Mr. Jenkins,
10 for me or for your counsel about your guilty plea or the terms
11 of your plea agreement?

12 **THE DEFENDANT:** No, ma'am. I'm fine.

13 **THE COURT:** Okay, all right, thank you. Based on the
14 answers you have given me and my conversations with you and
15 counsel and reviewing the record, I'm going to find that
16 you're competent to enter these guilty pleas. I believe you
17 understand the charges against you and the penalties you're
18 subject to and I find that you understand the rights you're
19 giving up by pleading guilty, that you're doing this
20 voluntarily and there's a factual basis for your entry of
21 these guilty pleas. So I'm accepting your pleas of guilty to
22 Counts One and Two of the superseding indictment regarding
23 sentencing. As indicated, counsel and Mr. Jenkins wanted to
24 proceed to sentencing.

25 The advisory guideline range calculation based on

1 the plea agreement and the pre-plea criminal history would
2 appear to put Mr. Jenkins at an offense level of 29 and a
3 Criminal History Category of I, which would be an 87 to 108
4 months, except that it is controlled by the mandatory minimum
5 in this case which is 120 months. So that would be my
6 understanding of the advisory guidelines situation. Does
7 Government counsel agree?

8 **MS. HOFFMAN:** Yes. That's correct, Your Honor.

9 **THE COURT:** Mr. Montemarano?

10 **MR. MONTEMARANO:** Yes, Your Honor.

11 **THE COURT:** All right then, I would be happy to hear
12 from counsel. Start with the Government about since the
13 guideline range is only one factor, why that is a sufficient,
14 without being greater than necessary, reasonable sentence.

15 **MS. HOFFMAN:** Thank you, Your Honor. Yes, the
16 Government does believe that a sentence of 120 months or 10
17 years is sufficient, but not greater than necessary to comply
18 with the purposes of sentencing set forth in 18 United States
19 Code 3553. This is obviously a very serious offense. The
20 defendant was associated with a violent set of the blood gang
21 called Mirtaland Mafia Piru or MMP which was responsible for
22 murders and shootings, in addition to large scale drug
23 trafficking. The defendant was not an actual member of MMP,
24 but he was intimately involved in the gang's activities. He
25 was repeatedly arrested in the gang's territory for drug

1 offenses. He sold drugs in the gang's territory and benefited
2 from the gang's protection.

3 In the summer of 2016 the ATF did conduct a wiretap
4 on the defendant's cell phone and also conducted a series of
5 controlled purchases of heroin and crack cocaine from the
6 defendant totaling roughly 280 grams of crack cocaine and
7 roughly 75 grams of heroin. They also conducted a controlled
8 purchase of a loaded firearm.

9 The defendant is a Criminal History Category I. He
10 does have some convictions. He has a 1990 conviction for
11 battery and malicious destruction of property; a 1992
12 conviction for CDS possession; a 1994 conviction for CDS
13 manufacture; a 1996 conviction for CDS unlawful possession; a
14 2005 conviction for CDS possession with intent to distribute
15 narcotics. Many of those time out however. There's more than
16 15 years or 10 years before the instant offense.

17 I think the parties agree with the calculation of
18 the guidelines that Your Honor just went over. The guidelines
19 would be, as you said, 87 to 108 months, but because of the
20 statutory minimum, they effectively become 120 months which is
21 what both parties are recommending here. Based on the
22 defendant's timely acceptance of responsibility and the fact
23 that he was not an actual member of the gang, we do feel that
24 ten years is a reasonable sentence and is sufficient, but not
25 greater than necessary.

1 **THE COURT:** Okay, thank you. Mr. Montemarano?

2 **MR. MONTEMARANO:** Thank you, Your Honor. Initially
3 the defense as well asked the Court to impose the agreed upon
4 mandatory minimum sentence which the Court cannot go below at
5 this point. My client is not eligible for the safety value
6 even though he is a Criminal History Category I because of the
7 firearm. However, I would observe to the Court that every
8 single substantive offense charged in this indictment,
9 including that firearm, were the result of police action. I
10 know the law and entrapment as well as anybody. I don't know
11 that there's any way I can make a legitimate argument
12 suggesting entrapment with my client's criminal history and
13 the question of predisposition on which I have written far too
14 much in the last several years. That being said, however, it
15 is difficult not to observe that, notwithstanding my client's
16 presence in the neighborhood for many years. It was only by
17 way of controlled purchases and controlled conduct that the
18 narcotics were obtained from him in the substantive offenses.
19 That is not in any way, shape, or form to act or to suggest to
20 the Court that we delimit Mr. Jenkins's conduct, but I think
21 it does provide some dimension and degree of understanding to
22 it.

23 We have certain concerns relative to Mr. Jenkins's
24 health that I'd like to put on the record and this may affect
25 Your Honor's recommendations to the Bureau of Prisons. My

1 client notwithstanding the fact that he's not that old a
2 fellow, certainly younger than I am, has or suffers as we
3 stand here the results of a difficult life. And I guess a
4 loss in the genetic lottery. For starters, he suffers from
5 Graves Disease, G-r-a-v-e-s. It's a thyroid condition. He's
6 on medication for it. That limits his ability to heal. He
7 has a sore behind his ear, for example, that just doesn't seem
8 to want to heal. That is coupled with severe blood pressure
9 issues for which he's also on medication. In addition to be
10 entirely candid, he was a long-term serious drug abuser and
11 that certainly tends to leave its results behind. Beyond
12 that, he was a victim in 2002? 2, right?

13 **THE DEFENDANT:** 2009.

14 **MR. MONTEMARANO:** Which one was the leg?

15 **THE DEFENDANT:** '89.

16 **MR. MONTEMARANO:** I got the years wrong, I apologize.
17 1989 he survived a severe gunshot wound to his lower right
18 leg. I will not grace the Court with a view of it, but you
19 can take from my word and I've seen just a few orthopedic
20 injuries in my time and suffered a couple, he has a large
21 chunk missing from his lower right tibia. And I'm not even
22 sure how the bone is structurally sound still. Miracles of
23 modern medical science, I suppose. Because of that his leg is
24 somewhat shorter on that side. He requires lifts in his
25 shoes. He requires the use of a cane, neither which

1 notwithstanding repeated requests by the defense and by Mr.
2 Jenkins have been afforded him at this point.

3 We would ask that he be at least proposed as being
4 eligible for Butner in the short term until his medical issues
5 are stabilized and treatment as necessary is obtained for him.
6 If that's not necessary, the BOP knows probably better than I
7 do. I've never had a question about the medical treatment
8 that my clients have received at Butner. I'm just not sure
9 that a quote/unquote line institution would necessarily be
10 able to afford him the necessary treatment, but he limps. He
11 has back issues from the unevenness of his gait which is the
12 reason he needs the cane.

13 In addition he has developed -- I'm not even sure
14 that he quite understands why -- a problem with his ring
15 finger and it no longer quite works right. And he has been
16 referred for surgery, however that may not take place before
17 he is transferred out of the district. And I've made Ms.
18 McGuinness from US Probation whom we thank, aware of these
19 conditions. She's ensured that these will all be set out in
20 detail for the BOP, by USPO so that the BOP has a record of it
21 and will be able to undertake it, et cetera.

22 **THE COURT:** Great, I was going to ask you about that.
23 If it needs to be done, sure.

24 **MR. MONTEMARANO:** Trying to do our job. In any
25 event, those are the concerns we have.

1 In addition, my client has asked me specifically to
2 ask the Court to note that he has a desire for both drug
3 treatment -- because he believes that's, of course, a source
4 of many of his problems -- and vocational training. In
5 particular because of his physical limitations he would be
6 interested in getting his CDL license. His understanding from
7 what he's been able to obtain by way of information is that
8 that's possible at Monroeville or Petersburg. And I would
9 simply ask that there be a recommendation that he be put in an
10 institution where he could obtain vocational training as suits
11 him. Because unfortunately, there are things he can't do
12 because of his leg. And CDL is something he thinks he can.
13 So he would like to be able to be employed when he gets out.

14 Mr. Jenkins, this is your opportunity to undertake
15 what's called allocution. You can tell the Court anything you
16 want to tell the Court. Because this is a C plea and Judge
17 Blake has indicated an inclination to impose the agreed upon
18 plea of ten years, you don't have to say anything and she
19 certainly would not hold it against you. I've been in front
20 of the judge many times and she understands it's my job to
21 speak on your behalf, but this is your right. Only you can
22 give it up. So if you have an interest or desire to say
23 anything to the Court at this time, this is the opportunity.

24 **THE DEFENDANT:** I'm fine. I'm fine with everything
25 my lawyer said to you and thank you for the opportunity to be

1 here today.

2 **THE COURT:** Okay. All right, well thank you all.
3 You can be seated. And I appreciate what counsel has told me
4 and as I said, from looking at the records before coming in it
5 seemed likely this would be reasonable and I do think it is
6 considering it's obviously an extremely serious offense.
7 There's no question about that. It's a substantial quantity
8 of drugs and Mr. Jenkins appears to have been associated with
9 a violent group of individuals. On the other hand, he is here
10 before me with most of the convictions being in the past. He's
11 a Criminal History Category One. The guideline range is
12 actually below the mandatory minimum and he has accepted
13 responsibility. So I agree that the sentence of ten years,
14 the mandatory minimum, 120 months in the custody of the Bureau
15 of Prisons is sufficient without being greater than necessary
16 to recognize both his individual circumstances and the
17 seriousness of the offense. So that is a concurrent sentence
18 on both Count One and Count Two of 120 months. It's going to
19 be followed by concurrent five-year terms of supervised
20 release on each count. And I will impose special conditions
21 of supervised release to include any substance or alcohol
22 abuse counseling, testing, treatment that the probation
23 officer recommends and any vocational or educational programs
24 that the probation officer recommends.

25 In terms of recommendation to the Bureau of Prisons

1 and I'm sure Mr. Montemarano has explained I can recommend, I
2 can't order them, but it seems to me there are two issues:
3 One is that he should be considered for designation to a
4 medical center so that his medical situation can be evaluated
5 and I appreciate that that's on the record and that the
6 probation officer will assist in getting that information to
7 the Bureau o Prisons.

8 I'll also recommend that Mr. Jenkins participate in
9 any substance abuse program he's eligible for at the Bureau of
10 Prisons. It's up to him and the Bureau of Prisons whether he
11 would, for example, be eligible for the RDAP program. I don't
12 know that, but I will recommend any substance abuse program he
13 is eligible for, as well as being able to participate in
14 vocational training suitable for him which might be a CDL
15 program. Again, that's something that he'll have to work on
16 with the Bureau of Prisons.

17 Obviously Mr. Jenkins's financial circumstances
18 don't permit a fine. There's not going to be a fine. I am
19 required to impose a \$100 special assessment on each count, so
20 I will do that. And I think that is a reasonable sentence.
21 Have I left anything out? Anything I have not addressed?

22 **MS. HOFFMAN:** No, nothing from the Government, thank
23 you.

24 **THE COURT:** All right.

25 **MR. MONTEMARANO:** I think Lauren has a motion for

1 the Court.

2 **THE COURT:** Yes, you want to move -- I should also
3 mention forfeiture. I am imposing forfeiture as specified in
4 the plea agreement. And the Government has some counts to
5 dismiss?

6 **MS. HOFFMAN:** Yes, we are moving to dismiss the
7 counts in which the defendant is charged, with the exception
8 of Counts One and Two. And I don't have the list of counts in
9 front of me, but the remaining counts we are moving to
10 dismiss. Counts 16, 17, 19, 21, 22 and 24.

11 **THE COURT:** Okay. All right, that will be
12 accomplished. Mr. Jenkins, in light of the plea agreement and
13 the sentence, I don't think there's anything you probably have
14 a right to or would necessarily want to appeal from, but if
15 there were going to be an appeal, that would have to be within
16 14 days. Do you understand that, sir?

17 **THE DEFENDANT:** Yes, ma'am.

18 **THE COURT:** Okay, good luck. Thank you all.

19 **THE CLERK:** All rise This Honorable Court stands
20 adjourned.

21 **(Proceeding was concluded at 2:59 p.m.)**
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1 CERTIFICATE OF OFFICIAL REPORTER

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5 I, Nadine M. Gazic, Certified Realtime Reporter and
6 Registered Merit Reporter, in and for the United States
7 District Court for the District of Maryland, do hereby
8 certify, pursuant to 28 U.S.C. § 753, that the foregoing is a
9 true and correct transcript of the stenographically-reported
10 proceedings held in the above-entitled matter and that the
11 transcript page format is in conformance with the regulations
12 of the Judicial Conference of the United States.

13
14 Dated this 15th day of March, 2021.

15
16 -S-

17
18 _____
NADINE M. GAZIC, CRR, RMR
19 FEDERAL OFFICIAL COURT REPORTER
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